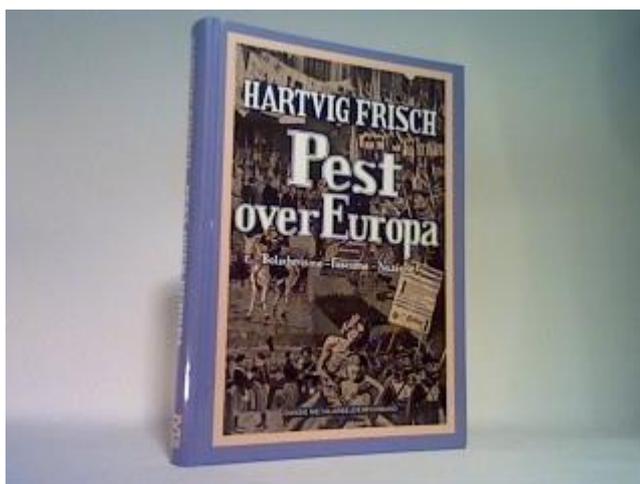


# Law, Democracy and Free Speech - The Traditional Danish Approach

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An old book of relevance even today

**Professor Ole Hasselbalch trækker i denne artikel, henvendt til et internationalt publikum, linjerne i ytringsfrihedsdebatten op og peger på de aktuelle trusler mod friheden i vores del af verden: I dag er faren lige så stor som dengang i 1930'erne, da Hartvig Frisch skrev "Pest over Europa", men anderledes.**

In 1933 the Danish author and politician Hartvig Frisch edited his book *Pest over Europa* ("Pestilence in Europe"). It warned against Nazism and Fascism. You would think – at least after the fall of the Berlin Wall – that such warnings are not necessary any more in countries which stage themselves to the outer world as being democratic model-societies. However, it is not so.

Societies under pressure might be enforced to modify the practical application of democracy – such as England under WWII. But contemporary Europe is not under any kind of pressure which could legitimize abortion from democratic key values. Nevertheless totalitarian concepts and attitudes are in new growth within our societies – even though the Devil does not materialize this time in the same way as last time he materialized. And what is more: this time he might be even more dangerous than he was when Hartvig Frisch wrote his book.

Thus today he is not accompanied by noisy brass music, goose-stepping and other eye-opening effects. Nothing calls for resistance and condemnation

just *now*. On the contrary, his poison is injected slowly, softly under the cover of politically correct, well sounding phrases and noble intentions so as to make us fall asleep. Moreover, the Devil is promoted by modern-minded and well-paid marketing experts who know only too well how to trick us without attracting our undesirable attention.

Thus, softened by seductive muzak dissolution of the basic ideas of democratic is smuggled into our brains: old ideals are redefined and given a new meaning, which serves a new social order – the Devil’s order. A slow, imperceptible, smooth movement into a new disaster.

We *can* see the road of destruction lying wide open in front of us, if we *want* to see it – as we could in the 1930s. But this time we do not act accordingly. Even if the *concept* of democracy has prevailed, and all the attractive words connected to that model are still in use, it is uncertain what is now to come. Thus the real values of “democracy” and its indispensable precondition namely freedom of “speech” have vanished away in the minds of far too many members of our ruling classes – some call them the “elite”. In fact in many Western countries those values have deteriorated to such a degree that they do not form practical standards to live by any more.

So it is time to sum up the elements of the idea upon which one of the oldest democracies in Europe, Denmark, was founded.

### **1. The Democratic vs. the Totalitarian Model**

All human cultures are based upon an idea of how society should work. This idea forms the mortar which keeps the individual members of society together – or rather it is the control center which keeps the delicate machinery of a human society with all its wheels, axles, bits and pieces running smoothly.

The idea might be a religion or a political ideology, but it might also be just an unwritten tradition unidentified in its role as the vital steering mechanism which prevents a collapse - or at least severe clashes between individuals. On the European scene, the present culture has since long been built upon Christianity.

Over the last centuries, modern democracies have developed on the basis of this religion and the idea of democracy grown in ancient Greece and in some ancient national traditions rooted in the social memory - all molded together in the storm of the French Revolution and similar national events in our part of the world.

Our concept of how society should work is based upon the idea that there is not - and should not be – a comprehensive and ever-lasting religious or political formula according to which human societies shall always abide. In contrast, in political decision-making earthly phenomons must always be taken into consideration on the basis of a concrete investigation of their nature.

Moreover, the evaluation of the results of this investigation should be made by each individual citizen within the framework of a political system which grants everyone the opportunity to give his opinion on and version of facts before the final political decision is taken in the matter.

The totalitarian concept of how societies should be run is much different. This concept was for example represented by Communism, Maoism and Nazism and it still forms the core of Islam. Here the idea is that it is in fact possible to work out – or maybe to find based on Nature’s laws, moral or religion – an *ideal* formula as to how man shall live.

Therefore, in such societies there is no need at all for exchange of opinions and information on facts found. Nor is there a need for individuals’ participation in political decision-making since the correct formula according to which action has to be taken is already there - worked out by the elite or even by one person only (“der Führer”, the Prophet or whoever he might be). The role (mission) of the elite is therefore to administer society according to this formula.

These two approaches have completely opposite starting points:

The democratic model puts the individual - and the integrity of the individual - in the center. Thus, according to this model, the individual may be entrusted not only to take care of himself, but also to participate in exercising the power of society. The individual is regarded as fully capable of performing this role - and he is regarded responsible enough not to abuse his power in a way to seriously infringe his fellow citizens.

Accordingly there is no need for laws on what the individual should do and not do, nor rules as to which opinions he should hold. Therefore the legislator only needs to put up a rudimentary framework of basic rules in order to prevent violent conflicts among individuals. Within this framework, individuals may live and do as they please. “The private sphere” is wide and the integrity of the individual is a highly prized good.

Thus the democratic concept is *liberal* – understood in the Scandinavian way, meaning that in principle no demands are put upon the individual beyond what is necessary in order to make society work. As for the *rest* of human life, it is left to the individual to decide for himself – in which context he could take guidance from custom and practice, from religious norms or from the ideas of the political party which he finds most attractive.

However, the democratic model put *emperry* in the center: it does not accept speculation as a valid basis for political decision-making, instead of facts established by the methods which are according to human experience are the best to produce verifiable knowledge. Accordingly, the idea is there must be an ever-lasting search for new knowledge and that this search should be supported and protected by the State. Finally the democratic model is pragmatic – tolerant in the sense that it does also accept *other* views and

assessments. In fact, it is even ready to accept that democracy itself could be amended according to better concepts.

The democratic model is therefore a sharp contrast to the totalitarian concept of how a society should work and the role of the individual: this model represents *elitism*, *intolerance* and *static thinking* since it pretends to represent the *only* and *ever-lasting* truth far beyond the understanding of and criticism from the common man. According to this model, not all humans are equally clever and responsible.

Therefore it is necessary to adapt society according to experiences and goals of the elite formulated in the given ideology/religion. Moreover, it is justifiable to use any appropriate means to enforce this ideal upon society.

In a totalitarian state, the needs of (ideal) society prevails even at the expense of its individuals. If there is a conflict between the two, considerations for the individual should therefore give way. - In the same way consideration for the people or the nation must give way to over-national arrangements which represents this ideal.

Thus, one characteristic of the totalitarian model is in its very core *not* based upon *emperiences* but on speculation. Another characteristic is the lack of willingness to accept that there *might* be other solutions. In the eyes of its worshippers, the given totalitarian model is per definition the *only* valid one according to “history”, “ethics/morals” or “justice”.

A third characteristic is the idea that at the end of the day anything is permissible – deceit, manipulation, lies, violence, even murder - as long as it serves the purpose of creating or preserving the “ideal” society.

Finally, the totalitarian model normally offers an over-all solution as to how man should live his life: the private sphere of the individual is dramatically reduced – might even totally disappear – and is substituted by comprehensive norms and legal rules on how citizens should behave and think privately and publicly in any respect at any moment of his life.

Consequently, in a totalitarian society there is no room for freedom of speech for the individual. What would be the use of such freedom? The features sketched above furthermore lead to another characteristic phenomenon in such societies: usually worshippers of a given totalitarian model spend lots of time trying to make theory and reality fit together.

In order to overcome discrepancies in this context, such worshippers for example often even rewrite history to fit their purpose or construe a mythology motivating acceptance of their ideal. It is also a characteristic that for pedagogical reasons such a mythology is usually anchored in forceful hero or scoundrel-roles. – For the Nazis the “Jews” and “Bolshevism”, for the Communists “Fascism”. Moreover, the definitions of such negative concepts are kept open to the interpretation of the elite. Totalitarian leaders will of

course also expect their subjects/inferiors to support such hero/scoundrel-roles and accompanying slogans directly and indirectly at all possible occasions.

To sum up: the totalitarian models materialize as political ideologies or religions which leave no room for the individual to have an opinion different from the “official” one or from the “truth” handed over from an authority or a person in authority. A totalitarian society is governed not by the citizens, but rather by an elite which has monopolized the right to decide what is the “right” opinion and who claims to represent the only truth. The only legal and acceptable opinion in such countries is one and for all formulated by the given ideology or religion. There is no tolerance to differing opinions, and information that does not fit into the overall concept is suppressed.

Totalitarian societies will therefore always face problems in the course of time. This is due to the fact that sooner or later reality and theory will not fit together in the ever-changing world. Moreover, totalitarian societies will never be able to reach the same level of materialistic and spiritual satisfaction for its inhabitants as a free society. Instead totalitarian societies will tend to suffer from abuse by the privileged class, mutual mistrust among citizens, lacks of goods and - eventually – end up in destruction.

## **2. The Indispensable Basis: Free Speech**

So the essence of democracy is that all facts and opinions should be brought forward as part of the political decision-making process. Democracy also means that all members of society have the right to participate in this process, to speak up in public and to publish his or her opinion and whatever he/she believes to be important information.

This openness has proved to be a vital precondition for the spiritual as well as the technical progress in a society. It is in fact the very basis of the progress which has taken place in Western societies since the Renaissance.

Counterwise, if there is no opportunity to bring forward facts and opinions, democracy has no meaning: what a man does not know does not form part of his picture of reality and opportunities, and without a correct picture of reality and the points of views which could be based upon such realities no sensible political decision-making process is possible.

Moreover, without democracy, society will easily come to a stand-still. Most likely it will not even be able to protect itself in the long run against external threats since it is most *unlikely* that all threats can be comprehended within the framework of a fixed political or religious idea. Instead, *fictive* threats which fit into the ideology or religion will be forcefully promoted - thereby distracting attention in the wrong direction.

Consequently, there must be *very* strong reasons for limiting access of the public to information on facts and opinions. Such limitations to freedom of information do not only undermine the very basis of the progress and

achievement which have characterized Western societies. They also involve a risk of squandering what we have already won. This goes for information in the public as well as the private sphere.

This is why the Danish Constitution secures a room for the individual to hold and express *any* opinion and yield *any* “fact” he finds convincing rather than binding him to pre-defined values however attractive they might appear for the time being. The idea behind that concept is that room must always be left open to *argue* any opinion and *present* any version of a supposed fact to support the same. Therefore in Danish legislative tradition not even idiotic and repulsive ideas such as that of Nazism have been illegalized.

Also the idea that the Moon is made out of green cheese is acceptable and should be offered a protected platform for promotion – because theoretically spoken it *might* be correct. Moreover, to open such a platform for discussion is without risk since we know that reasoned counter-arguments and contrasting information will easily dismantle stupid ideas and deprive them of their ability to grow. Moreover, who knows - would a human being be able to set the *exact* border of what is correct and what is not, what is an acceptable opinion and what is not? Therefore only such ideas which will *here and now* limit other individual’s freedom of expression or harm others without any reasonable grounds are excluded and banned.

### 3. The March of Folly

It should not be necessary to argue any further for and against the two contrasting models of society and for the principle of free speech represented in the democratic model. However, the necessity of exactly this freedom might be stressed by quoting the historian Barbara W. Tuchman for her conclusion in the book *The March of Folly* (1984):

*“Why do holders of high office so often act contrary to the way reason points and enlightened self-interest suggests? Why does intelligent mental process seem so often not to function?”*

*Why, to begin at the beginning, did the Trojan rulers drag that suspicious-looking wooden horse inside their walls despite every reason to suspect a Greek trick? Why did successive ministries of George III insist on coercing rather than conciliating the American colonies though repeatedly advised by many counselors that the harm done must be greater than any possible gain? Why did Charles XII and Napoleon and successively Hitler invade Russia despite the disasters incurred by each predecessor? Why did Montezuma, master of fierce and eager armies and of a city of 300,000, succumb passively to a party of several hundred alien invaders even after they had shown themselves all too obviously human beings, not gods? ... “*

Why, why??

Historic examples of stupid governing are numerous. Stupid not only in the light of clear hindsight, but also on their own premises in their own time. Stupid because it *would* have been possible to act differently. And stupid because it was not only stupidity of one person such a sovereign ruler, but the stupidity of a ruling class as such. As Tuchmann concludes: *“Folly's appearance is independent of era or locality; it is timeless and universal, although the habits and beliefs of a particular time and place determine the form it takes. It is unrelated to type of regime: monarchy, oligarchy and democracy produce it equally. Nor is it peculiar to nation or class.”*

Tuchman holds the opinion that the folly she describes is due to human nature and thereby repressions to which also political leaders are subjected: *“Wooden-headedness, the source of self-deception, is a factor that plays a remarkably large role in government. It consists in assessing a situation in terms of preconceived fixed notions while ignoring or rejecting any contrary signs. It is acting according to wish while not allowing oneself to be deflected by the facts. It is epitomized in a historian's statement about Philip II of Spain, the surpassing wooden-head of all sovereigns: No experience of the failure of his policy could shake his belief in its essential excellence. ... Wooden-headedness is also the refusal to benefit from experience ... “*

Moreover: power inevitably leads to such wooden headedness. The power to take decision causes lack of thought, and responsibility of power oftentimes disintegrates as power itself grows: *“A principle that emerges in the cases so far mentioned is that folly is a child of power. We all know ... that power corrupts. We are less aware that it breeds folly; that the power to command frequently causes failure to think; that the responsibility of power often fades as its exercise augments. ...”*

Democracy is the best way to deprive a ruler or a ruling class of the sovereign power to lead society into disaster due to this mechanism. But democracy does not *always* turn out that way.

#### **4. Freedom of Speech and the Rule of Law**

Free speech is the very core of Danish democracy:

In Danish tradition it has since long been permissible for everybody to speak up. Decisions on how society should be managed are taken on the basis of an open and very often pretty frank public discussion. This final decision-making is in the hands of a parliament – *Folketinget* - consisting of members elected by the citizens. The idea is that if an MP does not represent his constituency according to the wishes of his fellow citizens, he will not be re-elected.

Moreover, Parliament is subjected to rules to play by, which indirectly allow citizens to be heard:

Most importantly: Parliament can only make new laws on the basis of a comprehensive discussion pro and against the given matter. Even citizens which do not hold a chair in parliament have the opportunity to participate directly or indirectly in this process. Thus it is possible to work out a petition for the Parliament to consider certain facts or opinions before the final decision is taken.

A citizen could also launch his objections or information through the free press – for instance in letters to the editor's pages, which are superfluous in Denmark and dealing with all sorts of things. By appealing to the press – meaning a press beyond any influence of the Government – serious objections or suggestions to bills in Parliament might even end up as front-page stories. In this way, it is secured that all possible aspects of the matter are brought into the open and are taken into consideration.

Secondly, Parliament is only allowed to legislate in *general*, meaning that it is *not* permissible to pass an Act on a concrete case. Thus legislation made by Parliament should apply to *all* citizens involved in the matter concerned and not only to *some* citizens which are in the middle of a dispute with each other or with public authorities. If Parliament does not respect this principle, the courts are empowered to rule the Act null and void – what has actually happened.

It is in the hands of the Government and the public administration to apply the laws given by the Parliament. And it is up to the courts to decide whether its administration is lawful - and to decide upon conflicts between individuals on what the legal state of affairs between them in the given respect is.

Contrary to this courts are *not* allowed to legislate on their own – meaning creating *new law*. They may only *apply already valid law*. The reason behind this is that not *all* information and opinions on a given matter is accessible to the courts, but *only* the information and argumentation which is presented by the parties involved in the concrete case and their attorneys.

Of course the problem *could be* that Parliament has passed no legislation on the matter concerned. However, *if* so, the reasoning would be that courts should apply custom and practice as basis of their rulings since Parliament has obviously decided not to change the state of affairs represented in this way.

If courts exceed this borderline and create *new law* of their own, it would easily be regarded as an infringement of the Constitution – sort of a “coup d'état”. New law of this kind lack what is called democratic legitimation, meaning it has not undergone the process of legitimate law-making and thereby involvement of the public.

This is why the Danes are sensitive to the so-called “dynamic” rulings of the European Court of Human Rights and the European Court of Justice: such rulings are in principle not in accordance with the principles constituted by the Danish Constitution wherefore – in extreme cases – the Danish Parliament does not have the power to accept such rulings as directly binding law in

Denmark and thereby bypassing constitutional procedures for the passing of new legislation.

### **5. What is “Speech”?**

Freedom of speech means freedom to express oneself to other human beings. In a more narrow sense freedom of speech means freedom to express oneself *verbally*. However, freedom of speech is not only a question of freedom to speak up verbally.

Thus information could be expressed not only by the use of words, but in a number of other ways too: by signs, pictures/images, music, markings by the way to dress, by conduct etc. It might in fact also be by *abstaining* from any expression. And as for words: words can be used in different ways. An opinion or a fact can for example be expressed through irony as well as argumentative conclusions.

Moreover, a distinction could be made between expression of *opinions* and expression of *facts*. Both could be more or less neutral. Expression of opinions for example might be polemic, and expression of facts could be close to an expression of opinion by stressing only *parts* of the given fact and thereby biasing the statement.

Finally, one must realize that a communication might be a *one-off* thing or it might be part of a *course*. Moreover, the expression might not only be that of an *individual* but also that of *group*.

### **6. Legitimate Limitations to Free Speech**

Free speech is subjected to some legitimate limitations. Thus the principle of free speech is of course no excuse for calls for violence, swindling others for money, committing fraud in commercial marketing or genuine libel. And according to the law on medias, newspapers, TV-stations and radio cannot say and write what they please but are bound by ethical standards set up in order to promote truthfulness and objectivity. However, it could in some cases be difficult to set the borderline between legitimate and illegitimate expressions.

In principle, truthful and objective information on facts will always be legitimate. But the borderline between expression of objective facts and expressions of opinions could be narrow. Since long this problem has been dealt with in lawsuits on slander. But the most burning issue of today is whether freedom of speech should be restricted as being “racist” or blasphemous. See below.

### **7. Censorship**

Expressions – whatever form or context they have – can be prevented or obstructed in different ways. Traditional censorship followed by imprisonment is only one tool. Some will for instance still remember how the Soviet regime

tried to rubber-stamp the Soviet dissidents as fools when it proved impossible to bury them in Gulag-camps or mental hospitals any longer.

In real life the following remedies are available for the censor:

- *Preceding hard repression*, i.e. pre-prevention of the physical communication. The classical tool to prevent communication is pre-censorship on the physical media (newspapers, books, TV, internet etc.) accompanied by confiscation or other neutralization of the media. In the same way, meetings which are platforms for staging of undesirable communication could be forbidden, and associations which form channels for distribution of the same could be dissolved.

Examples of this are numerous in totalitarian societies. However, they also occur in Western democracies. Here it would most typically be private – but possibly publicly funded - extremist groupings committing violence under the protection of a passive police. The usual excuse nowadays is that the oppressing groups are “anti-racists”, “anti-fascists” or the like and that their victims are “racists”, “Nazis”, “extreme-rightists” etc.

- *Preceding soft/indirect repression*, i.e. by creating a group, moral or other pressure serving either to deprive the potential communicator of his ambition to communicate undesirable information or to disable his media, or by smearing him by the use of black or grey propaganda so that it will be useless for him to communicate his information anyway since his seriousness has been previously demolished in the mind of the audience.
- *Subsequent hard repression*, i.e. penalizing the distribution of undesirable information or civil reactions to the same, for instance dismissal, legalizing excessive claims on damages, destruction of the offender’s goods, psychological and physical attacks - even murder.
- *Subsequent soft/indirect repression*, i.e. afterwards neutralizing by unfair means information already distributed. This could easily be done by smearing the ones who launch undesirable information or by subsequent building-up of a group pressure dictating the recipient of information not to consider what he was told or not to accept it as a possible truth or legitimate opinion. Another solution would be to echo the information in a distorted form so that it attracts rejection instead of acceptance – or distribution of false counter-information. A more unconventional method would be to launch filibuster-lawsuits on the informant, claiming that he is committing a breach of rules on slander (i.e. lawsuits extracted in length and details into absurdity with the intention to exhaust psychologically and economically).

All these tools to suppress undesirable facts and arguments are equally effective. Thus it does not matter whether the intended recipient of information does not receive the information physically at all or does not take notice of

what he actually receives or does not take seriously what he has noticed because somebody manipulates him.

Therefore it is not possible to discuss censorship and free speak without considering the numerous tricks which are available to influence human behaviour quite independently of the substance matter and the conclusions which might naturally be drawn on that basis.

## 8. Psychological Manipulation

Numerous psychological tricks are available for the ones who try to influence human behavior quite independently of what the facts are and which conclusions might naturally be drawn on that basis. Thus modern sales-promotion technique encompasses a lot of methods to make the victim (mis)take fiction for facts and overlook relevant opinions. In contemporary Denmark, methods which would previously be ruled out as unfair press-practice are just regarded as “smart” journalism as long as they serve a “noble” – i.a. humanitarian, environmental or other “politically correct” – purpose.

It would be practically impossible to mention them all. However, three of them should be pinpointed since they are in frequent use:

*Appeal to convenience.* It is easy to exploit man’s tendency to take it “the easy way”. Only few people want to stress themselves by doing too much thinking. If a man has the choice between difficult investigation and contemplation on the one hand and looking at some brain-crushing program on the TV on the other, he will tend to make the last choice.

Speculation in the credulity of the public therefore has become a lifestyle. Politicians know only too well that it is not popular to present new facts to the voters and ask them to make up their minds about them. Therefore politicians tend to find ways to exploit the fact that people tend to believe the truth of what they already know or what is easiest for them to see or understand and most convenient for themselves. It is therefore easy to keep people’s attention away from things that are not “mainstream” and maybe even unpleasant to think of.

*“Normality”.* The established “normality” or “mainstream” - or the artificially construed picture of the same - therefore constitutes the best platform to work on in an effort to influence the public.

Once established and therefore massively echoed by politicians, medias and public-opinion makers – i.e. the “official” sources of information – the public will prefer to stick to it even if it mirrors the more complicated realities of an unstructured world only to a limited degree. Thereby the very existence of a “normal picture” of the facts and the relevant opinions makes it hard to convince people that things are quite different. And creation of an artificial “mainstream” opinion is one of the most important tools in the tool-box of a manipulator.

*Kidnapping words and concepts.* Changing the meaning of words is an important tool of manipulation too. If the meaning of a word is changed, it is possible to move the feelings and attitudes connected to that word into a new area – as already George Orwell described in his book *1984*.

There are numerous examples of this. Some years ago when it was vital in negotiations with the EC/EU to deprive the Danes of part of their national independence, the tool used was a so called “national compromise”. The tool to deprive the Danes of their exclusive right to their own territory is “human rights” of others.

Instead of talking of USA and NATO, reference is made to “the international society”. When an aggression against Serbia was staged as a violation of international law and the NATO-treaty, it was called a “peace-preserving action”. And when a dictate was forced upon the Serbs, it was named a “stability pact”.

No wonder therefore that opposition to immigration is called “racism and xenophobia” and the arguments leading to that opposition is called “hate-speech” – thereby legitimizing a fierce fight against the same (paid by the taxpayers of course) and legitimizing all sorts of tricks as part of that struggle. This in spite of the fact that “racism” is an ideology, theory or attitude maintaining that certain races of human beings are superior to others and have an inborn right to rule, that races ought to be kept separate or that the racial purity of nations must be preserved (cf. the definition of UNESCO’s Declaration on Race and Racial Prejudice of 27 November 1978, Article 2, 1:

“Any theory which involves the claim that racial or ethnic groups are inherently superior, thus implying that some would be entitled to dominate or eliminate others, presumed to be inferior, or which bases value judgments on racial differentiation. ...”). Racism is, in other words, a concept grounded in biology and cannot be applied to the spheres of religion, ideology, political persuasion or lifestyle. But how many in particular young ones remember that today?

## **9. Towards New Totalitarianism**

As pointed out in the beginning the traditional democratic values have come under severe pressure in Denmark during the past decades. Even after the Danish Peoples Party (*Dansk Folkeparti*) representing traditional values got decisive votes in Parliament in 2001 thereby enforcing other political parties and the press not to abort into complete disregard of these values, the situation remains problematic.

### *9.1. Oppressing Information*

Public debate in Denmark has been hit by censorship in new forms. One scholar –Eyvind Vesselbo now MP - pinpointed the phenomenon in the newspaper *Berlingske Tidende* 8 August 1995 and concludes that in particular

issues such as immigration, environment and culture have suffered. In the opinion of the present author the most serious abuses take place within the first subject which therefore forms the best example of what is happening:

Danish “dissidents” in this field – meaning spokesmen for a more restrictive immigration policy, who staged “political incorrect” information on the issue – were ostracized for a long time and to a considerable extent still are. There are numerous examples of political groupings in Denmark – usually on the political left – which have successfully rubber-stamped the political views of these dissidents as being “antidemocratic”, a “violation of human rights” etc.

A virtual flood of disinformation stressing these themes staged a similar agenda in the most important mainstream-medias. The reason was that a widespread inclination among “decent” people to demonstrate their decency by echoing the accusation and pure wooden-headedness among the journalists.

Therefore a lot of what later on proved to be true information was cut off from the public and in some media still is. And many Danish journalists still tend to smear in clever ways what they themselves (personally) find to be an “extremist right wing”, even if their victims are ordinary, worried people who just do not consent to the “humanitarian” immigration policy. False information and pure fabrications are still abundant in this context.

Effective legislation against slander and press-abuses of course forms a tool of protection against indirect censorship of this kind, but Danish law on this is inadequate and leaves ample room for launching even regular lies without being contradicted.

The official Press Board – a board set up to protect the ethical standards in the media – is no real help. A powerful Danish State-supported humanitarian association (*Dansk Flygtningehjælp*) has even applied an information-strategy according to which attitudes and information which is against the organisation’s interest should be excluded from the debate.

Even if the dissidents are now so many and influential so that such strategies do not work out any more as they did some years ago, within part of the cultural and political elite it is still not only permissible, but even “good manners” to mob the dissidents and – with all the methods of modern marketing – stage them in the most infamous way as Nazis in disguise, extremists or at least persons to keep away from and who cannot be trusted. Even obvious psychopaths and well known and even violent left-extremists dressed as serious “experts” have been widely used as “witnesses” to support the stories.

In 2011 a press campaign run by a couple of newspapers (*Politiken* and *Århus Stiftstidende*) was even based upon photos and documents hacked and stolen by burglars in private homes and thereafter falsified for the purpose by extreme leftists. Characteristically, the “stories” have never been denied by the editors of the newspapers mentioned.

However, smearing is oftentimes done in a subtle way where lies and fabrications are injected indirectly to the public, accompanied by false information on the dissidents' reportedly absurd opinions. Most people have not the guts or the knowledge to object to such methods and thereby also run the risk of putting themselves in the firing zone. And once told, the stories of the awful "extreme right" are oftentimes widely echoed by people who want to demonstrate their position on the politically correct side.

Self-evidently, information on facts coming from the "wrong" side is per definition not accepted as facts at all however well-documented they might be. One example as to how far this attitude is prevalent is that the Danish Association – a cross-party movement founded in 1987 to safeguard Danish culture, language and traditional lifestyle – in the 1980s collected a lot of (official) information on trends in population growth in different parts of the world from the UN information-office in Copenhagen and published it. This was immediately characterized as an expression of the Association's extremism(!)

Even today dissidents are usually not used by the press as "witnesses" when aspects of immigration-policy is dealt with. This in spite of the fact that the development which actually has taken place over the years has proved that they know more about the facts and of what might be expected to come than spokesmen of the "official" truth.

This is a characteristic feature: the elite tends to speak not *with* but *about* the holders of political incorrect opinions. Even if things have turned into the better over the last years, many newspapers still avoid letters to the editor which seriously question reason and reality in the images of the elite.

Thus many important medias do not see their primary role as distributors of information in the feeding-line of democracy. Instead, they put themselves in the role of an attorney for political correct opinions and distributor of (fabricated) facts supporting such opinions. In short: they have a "mission".

A characteristic statement from the managing director of the official *Danmarks Radio* (i.e. the official broadcast of radio and TV) which according to law is under an obligation to be impartial and objective, could be quoted: If Danmarks Radio is to take its own ideological basis seriously, we must consciously counteract the wave from the political right in questions concerning immigration (*JyllandsPosten* 15 November 1997:

"Hvis Danmarks Radio skal tage sit idegrundlag alvorligt, så bør vi bevidst i den samlede sendeflade forsøge at dæmme op over for den højrebølge i indvandrerspørgsmålet, der strømmer gennem landet").

It is characteristic that this institution has *never* ever produced a program showing the *full* implications of the ongoing development within the field of immigration in Denmark – not even the objective facts of this field have been broadcast in whole, but only fragments not sufficient for the viewer/listener to understand the full implications of what is going on.

For a long period, Danish public libraries were almost clinically cleansed of books and pamphlets coming from the dissident side. The right to be heard which constitutes a central part of legislation on libraries, is not applied in full even today. On the contrary, it seems to be legitimate to try to keep their pamphlets and books away from the shelves.

There are also examples that undesirable facts and legitimate views are not even accepted in paid advertisements, that scholars who represents the “wrong” opinions are blacklisted for long periods and cannot have controversial writings published even if they are well documented, that private businessmen with “incorrect” attitudes are boycotted and employees in the same position have their careers put to a standstill, that students are harassed so that they are not able to finish their exams, that private banks dare not have political incorrect customers and that organisations who have seen no problems in using information from the “revolutionary” political left abstain from using factual information solely because it is administered by politically incorrect persons.

Filibuster lawsuits have also been initiated by for example certain religious groupings and by Neo-Nazis in order to stop undesirable information. For instance, some years ago the spokesman of the Danish Jewish Society, who tried to counteract abuse of the Holocaust to promote the new forms of “anti-racism”, was neutralized by a so-called Nazi-hunter who actually himself had not only produced Nazi-propaganda, but in fact acted on the basis of a written contract with the Nazis themselves.

In addition, there are violent attacks upon persons who do not hail the policy of open borders – usually committed under the excuse that they are extreme rightists, “racists” and “Nazis”. At the formation of the Danish Association in 1987, the founding-meeting was even attacked with bombs and poison gas.

### *9.2. The Dictatorship of Human Rights*

After WW II, human rights as formulated in the human rights' conventions of the 1940s and 1950s for natural reasons play a vital role in the European mind. Human rights as formulated in these conventions are however often defined in vague and indefinite principles. So much is left in the hands of the administrators of these rights i.e. not only the European Court of Human Rights which legislates on its own (see above 4), but also the national institutions set up to administer human rights and give advice on their application.

This has led to a rather unsound development, which can easily be seen on the Danish stage: The human right institutions have attracted lots of experts – and pseudo experts – who are not only professionally but also personally engaged in the substance-matter. To some extent, special political groupings have also tried to monopolize *their* (exclusive) right to be the guardians of human rights. In this way, a one-eye apparatus grew up - heavily supported by the State. This in turn attracted a lot of supporters, who in this way got easy

access not only to influence, but also to resources which they could not even have hoped for, had they been on their own.

Since the politicians did not want to resist the constant growing demands from such administrators of human rights – which for a long time were at least in principle supported by the public opinion as far as the overarching principles were concerned – their influence grew constantly. Unfortunately, this did not increase the quality of their work.

On the contrary – due to the vagueness of the basic sources of law and the relatively practical unimportance in Denmark of the matter, low-level human right-jurisprudence came to flourish. This meant for example that only *one* approach was usually accepted as being in accordance with “human rights”, namely the approach closest to the personal feelings and desires of the human rights administrators.

There are numerous practical examples of how “human right” of this kind ended up in open conflict with obvious and legitimate needs of Danish Society and the democratic principles upon which this society is based. Just one might be mentioned: it is an established fact that the Danish Center for Human Rights on 1 October 1987 held a meeting concerning “the growing racism in Europe” (observe the presumption implied in the title).

Participants were organisations from the extreme left such as the ones who had violently tried to stop the first meetings of their opponents – at that particular time the Danish Association. A key issue of the meeting was how to stop this Association effectively. No objection on this very approach was made by the representative of the Center.

Later on (1994), the Center refused to arrange a public hearing on political violence in Denmark. It was of no interest to the Center (the events are reported in further details in the book “*Opgøret med indvandringspolitikken*”, 2003, p. 157 by the present author). In 2007 a murder assault on the organisers of a demonstration against a meeting between the Center and a delegation of its “colleagues” from Saudi Arabia remained uncommented by the Center.

So it could be said that the administrators of human rights have turned into professional “good-doers”. Therefore human rights as a such have fallen into distrust within large circles of society. Nevertheless, “human rights” as defined by the good-doers still is a key for political decision-making and thereby forms the basis of destruction of society in the most critical phase of Danish history ever – the phase unprecedented in history where the Danes very right to their own territory is at stake due to immigration from the Third World.

### 9.3. “Hate-Speech” and Blasphemy

As already said: In a democracy, people should have the opportunity to elect its representatives on the basis of their ideology and political intentions even if

somebody feels bad about them. Accordingly, candidates for political offices should be allowed to express themselves freely - as long as they do not resort to plain slander – including baseless accusations - or plain threats of violence. Moreover, citizens should have the freedom to discuss any subject with only limited exemptions. If that is not possible, there is no real democracy.

A key element in a sad development away from this is EU-Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of “racism and xenophobia” by means of criminal law (Official Journal L 328, 06/12/2008 P. 0055 – 0058).

A framework decision is a legal instrument with clearly defined implications: according to Article 34 of the EU Treaty, such a decision is binding on the member states in regard to the intended objective. However, it is up to national authorities to determine in what form and by what means it is to be implemented.

This means that every member state in the European Union is obliged to bring about a legal order that complies with the demands of the Framework Decision as interpreted by the European Court of Justice.

The 2008 Framework Decision thus institutes an EU-wide legal regime enforced by the traditionally activist European Court of Justice. This legal regime has never been discussed with the populations of the member states, nor have these populations ever been given the opportunity to decide whether they wanted their right of free speech curtailed in the manner determined by the Framework Decision.

The background is the following:

Over the years there was constant pressure from human-rights administrators and extreme left-wing organisations of different kinds to focus on the postulated growing “racism” in Europe. The term is put in quotation marks because this pressure was not accompanied by well-documented proof that there was in fact such a growth, no clear definition of the term was established, and no distinction was made between “racism” and what was called “xenophobia” either.

The whole concept therefore forms more of an appeal to feelings than to the brain. This might be why the European politicians proved vulnerable to the approach – another reason might be the simple idea that by granting the leftists and good-doers this lump of meat, which seemed to be of no real importance they might be silenced and may be even brought in favour of the European idea.

Whatever the reason was, a development was initiated which after a couple of stand-stills – full reports from the meetings are not public, but apparently the Danish Minister ran into domestic problems and a couple of East-European ministers saw only too well the resemblance to what they had seen once before – ended up in the paper mentioned.

It is essential to have an open discussion on the consequences of the immigration to Europe and the acceptability of the immigrants' values and religious habits, which are in some respects in strong contrast to the values of democracy. In spite of this the Framework Decision forms a formidable example of an attempt to suppress free speech.

The preamble of course takes its starting point in the statement that "racism and xenophobia" - which are not defined anywhere in the decision or elsewhere in EU-legislation - are direct violations of the principles of liberty, democracy, respect of human rights and fundamental freedoms and the rule of law, principles upon which the European Union is founded and which are common to the Member States. It then mentions a lot of EU-plans, resolutions, communications etc. on the issue – none of which does in fact go into the substance matter

In other words: It draws on glittering values praised by almost everybody and on decisions already taken – and avoids the sore fact that these decisions are not based on rational reflection.

It then states that the - still undefined - "racism and xenophobia" constitute a threat to groups of persons which are the target of such behavior, wherefore it is necessary to define a common criminal-law approach in the EU to this phenomenon in order to ensure that the same behaviour constitutes an offence in all Member States and that effective, proportionate and dissuasive penalties should be provided for natural and legal persons having committed or being liable for such offences (EU-language). It is really an interesting approach: who could possibly say that evils that are not defined will be a threat to anything?

More specifically, according to the instrument Each Member State shall take the measures necessary to ensure that for example intentional public *inciting* to violence or *hatred* directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin is punishable (Article 1, 1). According to Article 1, 2 Member States may choose to punish only conduct which is either carried out in a manner likely to disturb public order or which is threatening, abusive or insulting.

Setting up the required restrictions in national law is rather problematic:

According to Article 1, 3 for the purpose of paragraph 1, the reference to "religion" is intended to cover, at least, conduct which is a pretext for directing acts against a group of persons or a member of such a group defined by reference to race, colour, descent, or national or ethnic origin. And according to the preamble (8) "religion" should be understood as broadly referring to persons defined by reference to their religious convictions or beliefs. What does this mean?

What constitutes a religion? How could we possibly make a clear distinction between religions and political ideologies? Is any belief-system that claims to

be a religion automatically protected against criticism or ridicule? Should primitive religions which exercise man-destructive ceremonies be respected too? And if a religion - such as Islam - encompasses a complete societal ideology including a political as well as a legal system mandated by its God, should criticism or denigration of it then be punishable by law?

Moreover, ruling out certain opinions and factual information on *all* kinds of beliefs which according to tradition are regarded as religions because we define them as expressions of “racism and xenophobia” means giving such religions a protected platform. And are we really sure that they all deserve such a privilege?

The obvious nonsense incorporated in the text and the anti-democratic approach of the whole instrument of course forms a problem to its fathers. No wonder therefore that Article 7 states that the Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles, including freedom of expression and association, as enshrined in Article 6 of the Treaty on European Union, nor shall it have the effect of requiring Member States to take measures in contradiction to fundamental principles relating to freedom of association and freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability. Cf. also (14) of the preamble:

“This Framework Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Articles 10 and 11 thereof, and reflected in the Charter of Fundamental Rights of the European Union, and notably Chapters II and VI thereof.”

What does this modification imply? Obviously key-elements of the instrument collide with the fundamental principles of the EU? According to the instrument, the Member States shall pass bills which in principle will seriously limit traditional constitutional rights of the citizens – but this should not be done in a way which limits their traditional constitutional rights(!)

Even more: what is “hatred”? When does dissociation from or arguments against a religion or an idea turn into expressions of “hatred”? Should *all* religions be protected from criticism, and are *all* cultural features acceptable? How does one express criticism against an idea or habits prevalent in a culture without risking that it might be taken for incitement of hatred? How do we deal with a belief-system that is in *itself* hateful or encourages violence towards non-believers or towards adherents of other religions? Should people also be punished for expressing hatred towards those who hate them? Should one be obligated by law not to condemn the intolerant?

What does “inciting” to hatred mean? Example: as already said freedom of speech is also the right to argue with humor and irony – thus for instance to condense an idea, an assessment or a fact into a cartoon or an image. Cartoons might in fact in one short glimpse pinpoint something which it would take thousands of words to explain, and cartoons are often much easier to understand. All Danish institutions and public persons are cartooned and thereby ridiculed from time to time – individuals as well as the Church, political parties etc. Even the Queen has had her caricature drawn. Should abuse of power, wooden-headedness of political and religious leaders and sources of disorder and stupidity not be allowed to be pinpointed, criticized and cartooned?

And as for the exemption rule in Article 1, 2: if a group protected by Article 1,1 chooses to disturb public order due to what somebody is expected to express, the group is able to prevent it from being said at all just by the pure threat of causing such disorder. In the same way it is up to the individual or group to decide whether he/it chooses to feel threatened, abused or insulted.

If freedom of speech is limited by the sole reason that somebody is offended or even hated for good reasons, there would in fact not be any freedom of speech at all. Surely, the sovereign kings and the nobility of previous times felt offended and hated when they were met with claims for democracy. Hitler felt offended when Charlie Chaplin made a caricature of him in the movie “The Dictator”.

And the Pope and his Catholics felt highly offended when Northern Europe refused him, cartooned him and had its Reformation. They felt even more offended when scientists claimed that it was not the sun which circled around our globe but the other way around. He even managed to burn some scientists on the bonfire for that reason.

But how would our countries have looked today if nobody had dared to stand up and offend Catholicism on this issue? If anybody feels threatened, abused or insulted, he or the group is in his/its full right to argue why the critics are wrong and deceitful. If a threat implies a threat of violence, it is a matter for the police to deal with according to the rules in penal act on such threats. And if an obvious offence exceeds the borderline of truth, a lawsuit for slander could be launched.

#### *9.4. The Totalitarian EU*

Denmark is part of the EU and therefore subjected to the formal and informal influence from this organisation. This is a major challenge to Danish democracy:

The decision making process within the EU does not live up to the democratic ideal where voters’ interests and voters’ influence should form the driving element in the legislative process. Thus influence of a European citizen on the decisions taken is distant and indirect to a degree which makes it almost non-

existent. What counts is not the power of the voter, but the power of EU-institutions.

This is due not only to the very size of the EU as an organization, but also to a strange but obvious fear of the voters by the EU-politicians. A fear which makes the politicians again and again avoid voters' direct influence – as we saw when the Lisbon-Treaty was passed.

This leaves ample room for factors which are *not* relevant to the voters or which are even directly *against* voters' interests to influence events. And it leaves room for resolute interest groups to take the lead. Nevertheless, "lobbying activities" by such groups is accepted as a powerful tool to influence EU-politicians.

Influence from lobbyists is always a dangerous parameter for political decision making. Of course the groups represented in this way must have *their* interests taken care of also.

But when professional lobbying is involved, this will easily happen on the cost of others who do not have the same intellectual or economic strength to have their need put on the political agenda. Part of a lobbying-process might even be to *suppress* such interests, and key issues might even be totally whipped out as factors to be attended to. So the outcome of lobby activities might easily be a distorted basis of the running of society.

In that way, political decisions are removed from the direct influence of the voters and thereby from their need, and irrational factors might seriously affect decision-making, resulting in the collapse of political decision-making described by Barbara Tuchman.

This forms a formidable threat to the Europeans for the time being. One must remember that it is indeed a critical time for this part of the world.

Open minded decision making on the basis of the actual facts is vital for the protection of European values and cultures in an era where millions of in particular Moslems have poured into Europe and settled down, forming their own societies, which are now growing excessively protected by a *laissez faire*-attitude of the European elite.